

Request for Reconsideration
Serial No. 10/671,218

REMARKS

Reconsideration of all grounds of rejection, and allowance of all the pending claims are respectfully requested in light of the above amendments and the following remarks. Claims 1-18 are pending in the application. Claims 1-18 stand rejected. Claims 1 and 10 are independent claims.

Claims 1, 7, 10 and 16 stand rejected under 35 U.S.C §102(e) as allegedly being anticipated by Blahut *et al.* (U.S. 6,778,550) ("Blahut"). Claims 2 and 11 stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over Blahut in view of Sala *et al.* (U.S. 7,127,167) ("Sala"). Claims 3, 5, 9, 12, 14 and 18 stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over Blahut in view of U.S. Patent Application Publication No. 2003/0016692 to Thomas *et al.* (U.S. Pat. Pub. 2003/00166982) ("Thomas"). Claims 4, 6, 8, 13, 15 and 17 stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over Blahut in view of Sala and further in view of Thomas. Applicant respectfully traverses all grounds of rejection for the reasons indicated herein below.

Applicant respectfully request reconsideration of all grounds of rejection as the Examiner has failed to shift the burden of patentability to the Applicant in all of the rejections.

More specifically on page 2 of the Office Action the rejection of claims 1, 7, 10 and 16 alleges that the recitation of "an optical transceiver configured to receive an optical TDM (Time Division Multiplex) broadcasting-telecommunications converged signal from an Optical Network Unit (ONU)" is met by FIG. 1, reference numeral 104 of Blahut. **However, reference numeral 104 in FIG. 1 of Blahut is a passive optical splitter (see col. 3, lines 65).**

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Furthermore, Applicant strongly disagrees with the recitation in the Office Action on page 2 that the claim language of an ONU reads on passive optical splitter 104 because **"reference numeral 104 in Figure 1 acting as a unit in an optical network"**. Applicant respectfully submits that the above-cite quotation appears to be a form of semantic gamesmanship and an arbitrary and capricious ground of denying Applicant a patent, as a **person of ordinary skill in the art clearly understands the difference between an Optical Network Unit and a passive optical splitter**. Accordingly, to respond to the Applicant that the claim language does not preclude such a definition is clearly an untenable position that must be reconsidered and withdrawn.

Applicant has provided herewith Exhibits A and B for the Examiner's consideration to show that the terms "Optical Network Unit", "ONU" and "passive optical splitter" clearly have a meaning understood by a person of ordinary skill in the art that is contrary to the Examiner's position.

Exhibit A is a page from a Fiber Optic Glossary which provides a definition for a passive branching device (passive optical splitter) and even provides a simple diagram of one. Reference numeral 104 in Blahut is a passive optical splitter of the type exemplified in Exhibit A.

On the other hand, Exhibit B (two pages of an Ethernet Passive Optical Network Tutorial) shows in Figure 4 a PON configuration with an optical splitter and a plurality of ONUs. There is even a photo of an optical splitter in the diagram. Applicant also refers to the second page of Exhibit the tutorial, which shows a paragraph with a heading "ONU and OLT Operation". While there can be other functions provided by the ONU than shown, there is clearly a difference between an ONU and a passive optical splitter. Applicant reminds the Examiner that the patent application was written to be understood by a person of ordinary skill in the art, and a

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person of ordinary skill in the art understands the difference between those terms. Accordingly, the Applicant's recitation of "an optical transceiver configured to receive an optical TDM (Time Division Multiplex) broadcasting-telecommunications converged signal from an Optical Network Unit (ONU)" in claim 1 is clearly not met by Blahut. A similar recitation in step (a) of independent claim 10 is not by Blahut as well.

Accordingly, for at least the above reasons, Applicant respectfully submits that none of the present claims are anticipated by Blahut, as this reference fails to disclose all of the elements recited by the Applicant in claims.

According to the United States Court of Appeals for the Federal Circuit, a claim is anticipated under 35 U.S.C. §102 only if a single prior art reference sets forth each and every feature recited in a claim (*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)), including the features in functional language (*In re Schreiber*, 128 F.3d 1473, 1478, 44 USPQ.2d 1429 (Fed. Cir. 1997) (citing *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971))).

Accordingly, for at least the above reasons, Applicant respectfully submits that claims 1, 7, 10 and 16 are not anticipated by Blahut. Nor would these claims have been obvious over Blahut and/or any combination of Blahut with Sala and/or Thomas. Moreover, the combinations of elements, as recited in the present claims, would not have been obvious at the time of invention as being within the ordinary level of skill in the art (*KSR International v. Teleflex*, 127 S.Ct. 1727, 82 USPQ2d 1385 (2007)). Reconsideration and withdrawal of this ground of rejection are respectfully requested.

Moreover, other claims in this application that are each dependent on the independent claims 1 or 10, and are believed patentable at least for the same reasons. Since each dependent

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claim is also deemed to define an additional aspect of the invention, however, individual consideration of the patentability of each claim on its own merits is respectfully requested.

With regard to the rejections under 35 U.S.C. §103(a), Applicant also respectfully submits that Blahut in combination with Sala and/or Thomas fail to disclose, suggest or otherwise render obvious the presently claimed optical signal distributor in a FTTH network wherein a converged optical signal is received by the subscriber optical distributor from an ONU at the user's location via an optical fiber. The combination of references fail as a whole to disclose or render obvious any of the claims at least for the reason that the combination rejection incorrectly credits Blahut as providing disclosure used in the combination rejection that is not present in the reference (And incorrect from a technical standpoint) and thus the combination fails. Nor would the combination of Blahut, Sala and/or Thomas, in any combination, disclose, or render obvious the presently claimed invention. Addition, nor are the recitations recited in claims 1 and 10 within the ordinary level of skill by the artisan such that any of the present claims would have been obvious at the time of convention. Reconsideration and withdrawal of all grounds of rejections under 35 U.S.C. 103(a) are respectfully requested.

Finally, Applicant respectfully responds to the Examiner's comments in the Office Action that "Blahut's transceiver converts an optical signal to an electrical signal. However, the Examiner notes that this conversion does not preclude Blahut from anticipating the claimed invention since the claim language does not recite that the transceiver does not perform this function." The aforementioned statement is contrary to the claim language, as claim 1 does recite in the first paragraph that a transceiver performs a conversion (such as element 41 in Fig. 4 of the block diagram of the subscriber optical distributor according to the present invention.

For all the foregoing reasons, it is respectfully submitted that all the present claims are

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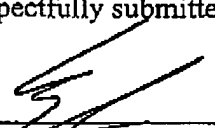
patentable in view of the cited references. A Notice of Allowance is respectfully requested.

While no fees are believed due at this time, please credit any overage or charge any deficiency to Deposit Account 502-470.

Should the Examiner deem that there are any issues which may be best resolved by telephone, please contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,

Date: 8/14/08

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Enclosures:

Exhibit A
Exhibit B